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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,492	01/12/2004	William J. Deakin	25040-0951	1982

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/755,492

Applicant(s)

DEAKIN ET AL.

Examiner

Matthew S. Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 13-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

- Claims 1-41 are pending in the instant application.
- Claims 13-41 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.
- Claims 1-12 are rejected as set forth below.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 2/27/2007 has been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-7 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Abell (Patent Application Publication 2003/0172028).

Referring to claim 1. Abell discloses a product container, comprising:

at least one product selector, wherein the at least one product selector is selectable by a consumer to identify a physically tangible product for purchase (Abell: Fig. 7, "Vending Machine **709**");

a network interface, wherein said network interface facilitates communication of the product container with a network (Abell: Fig. 7, "Background Network **705**"); and

a wireless access point, wherein the product container is operable to dispense the product selected by the consumer, and to provide at least one device wireless communication with said network via the wireless access point (Abell: Fig. 7, "Customer Device **711**").

Referring to claim 2. Abell further discloses a product container wherein the network is the Internet (Abell: paragraph 0031).

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Referring to claim 5. Abell further discloses a product container wherein the container is operable to communicate with a content server via the network interface (Abell: Fig. 7, "**707**").

Referring to claim 6. Abell further discloses a product container wherein the container is operable to receive information from the consumer, and wherein the container is further operable to upload the information received from the consumer to the content server (Abell: paragraph 0041, "The call is connected to a background system including server **703** that is capable of initiating billing authorization request to the cellular phone contract provider **707**.").

Referring to claim 7. Abell further discloses a product container comprising an output device, wherein said output device is operable to display content transmitted to said container from said content server (Abell: Fig. 6, "**611**").

Referring to claim 10. Abell further discloses a product container wherein the container is selected from the group of containers consisting of a fountain machine and a vending machine (Abell: Fig. 7, "Vending Machine **709**").

Referring to claim 11. Abell further discloses a product container comprising at least one sensor, wherein the at least one sensor is operable to identify the presence of a person near the product container (Abell: paragraph 0041).

Referring to claim 12. Abell further discloses a product container wherein the at least one sensor is selected from the group of sensors consisting of a motion sensor, a microphone, a light sensor, and a radio-frequency sensor (Abell: paragraph 0041).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abell (Patent Application Publication 2003/0172028) in view of Herzog (Patent Application Publication 2005/0189364).

Referring to claims 3-4. Abell discloses a product container as set forth in claim 1 above. Abell does not expressly disclose a product container comprising consumer-packaged goods (i.e. soft drinks). Herzog in Fig. 1 discloses a product container comprising consumer-packaged goods (i.e. soft drinks).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the product container of Abell to have included the teachings of Herzog because vending machines have always served the purpose of providing an around the clock shopping alternative (Herzog: paragraph 0003).

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Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abell (Patent Application Publication 2003/0172028) in view of Pons (Patent Application Publication 2002/0099608).

Referring to claims 8-9. Abell discloses a product container as set forth in claim 1 above. Abell does not expressly disclose a product container comprising an output device, wherein said output device is operable to print receipts comprising a reward indicator. Pons discloses a product container comprising an output device, wherein said output device is operable to print receipts comprising a reward indicator (Pons: paragraph 0029).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the product container of Abell to have included the teachings of Pons in order to increase advertisement efforts (Pons: paragraph 0029).

Response to Arguments

Applicant's arguments filed 2/22/2007 have been fully considered but they are not persuasive.

The Applicant argues that Abell does not disclose a wireless access point that allows the consumer's device to access the network with which the product container communicates.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a wireless access point that allows the consumer's device to access the network with which the product container communicates) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 1 merely requires a product container that is operable to dispense a product and a means for a customer device to wirelessly communicate with a network through a wireless access point. Abell clearly shows in Figure 7, the customer device **711** can communicate with the background network **705** directly or through the PAN (via the vending machine).

The Applicant argues that Abell does not disclose a system wherein the network is the Internet.

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The Examiner notes, the Payment authorization system is connected to the server via a background network. Background network may be a wide area network (WAN), such as the Internet, or a local area network (Abell: Paragraph 0031).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSG

Primary Examiner

March 21, 2007


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600